

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

622 THIRD AVENUE COMPANY, L.L.C.,

Plaintiff,

-v.-

NATIONAL FIRE INSURANCE COMPANY OF
HARTFORD, TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, and HARLEYSVILLE
WORCESTER INSURANCE COMPANY,

Defendants.

21 Civ. 6050 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

On April 21, 2022, Plaintiff filed a motion for partial summary judgment against Defendant Harleysville on the issue of the duty to defend. (Dkt. #50). Defendants Travelers and Hartford joined in Plaintiff's motion (Dkt. #58, 61), and further argued that the Court should grant summary judgment in their favor on their respective cross-claims against Defendant Harleysville. However, Defendant Travelers and Hartford have not submitted to the Court the insurance policies they issued that form the basis for their summary judgment motions.¹ For the sake of completeness of the record in this case, Defendants Hartford and Travelers are **ORDERED** to file these policies on the docket in this case by **November 30, 2022**.

The Court further notes that Defendant Harleysville has entirely failed to respond to the other Defendants' arguments related to contribution, other than

¹ Defendant Hartford submitted an excerpt of the subject policy as an exhibit to its letter motion.

arguing that because the additional insured provision is inapplicable in this case, “Harleysville has no obligation to provide any contribution for the defense and indemnification of 622 to any of the insurers that do provide coverage to 622 in connection with this claim.” (Dkt. #63 at 3). As such, Defendant Harleysville has likely abandoned further arguments related to the other Defendants’ motions. *See, e.g., Jackson v. Fed. Exp.*, 766 F.3d 189, 198 (2d Cir. 2014) (“[I]n the case of a counseled party, a court may, when appropriate, infer from a party's partial opposition that relevant claims or defenses that are not defended have been abandoned.”). That being said, Defendant Harleysville may submit a letter not to exceed three pages in length by **December 7, 2022**, following submission of the other Defendants’ policies.

SO ORDERED.

Dated: November 28, 2022
New York, New York



KATHERINE POLK FAILLA
United States District Judge